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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,435	07/25/2006	Karl Freudelsperger	72271	1940
23872	7590	08/03/2009		
MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227			EXAMINER RUDAWITZ, JOSHUA I	
			ART UNIT 3652	PAPER NUMBER
			MAIL DATE 08/03/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/597,435

Applicant(s)

FREUDENSPERGER, KARL

Examiner

JOSHUA I. RUDAWITZ

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 12 and 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamide (US 2002/0039527).

Kamide discloses a storage and retrieval unit for transporting goods from or into a shelf; a vertical mast 71/72 (Fig 5); a longitudinal drive 8/9 connected to the mast; a height-adjustable goods receiver 74 provided at the vertical mast, characterized in that the vertical mast is designed as comprising an articulated mast with a joint 77/76, which makes possible a deflection of the articulated mast in the direction of longitudinal displacement; a guide/readjusting device 28/29/84 with articulated rods, including an articulated oscillating crank 82 pivotable about a horizontal axis (at joints 79/78), which returns the articulated mast into the normal position upon a guided deflection; the joint is located in the area of the longitudinal drive; the longitudinal drive is arranged in the area of an upper and lower mast end wherein the articulated mast is suspended on an upper chassis; the guide/readjusting device has another longitudinal drive 9, and the two longitudinal drives may be operated synchronously; the two longitudinal drives are operated synchronously such that the articulated mast is arranged vertically

during the normal operation of a longitudinal displacement of the storage and retrieval unit, and that guided deflection of the articulated mast can take place in case of an emergency stop of the storage and retrieval unit; the guide/readjusting device comprises an elastic readjusting means 28; the goods receiver 74, is adjustable in height at the articulated mast and is located in the area of the joint for the longitudinal displacement of the storage and retrieval unit to a site of operation of the shelf on the shelf front or on the shelf rear; the upper and lower chassis are guided in a non-tilting manner on rails 6/7; the rails are integrated parts of the shelf; the articulated mast or the joint of the articulated mast, has a blocking device 81-80, which prevents deflection of the articulated mast up to a mast load limit value and permits deflection of the articulated mast when the mast load limit value is exceeded; the mast load limit value is a lateral force limit value of the articulated mast or an acceleration/deceleration limit value of the longitudinally displaceable storage and retrieval unit; the guide/readjusting device comprises a bent guide 28, comprising a sliding guide 84 with lateral sliding blocks at the deflectable end of the articulated mast, which makes possible an exact bent guiding of the deflectable end of the articulated mast during unhindered deflection of the articulated mast along the arc and clearance-free guiding in the transverse direction; and a method for longitudinally positioning the storage and retrieval unit at a site of operation of the shelf, the longitudinal drives are operated such that the articulated mast is arranged vertically during normal operation of a longitudinal displacement of the storage and retrieval unit and that

providing guided deflection of the articulated mast and guided returning takes place return of the articulated mast in case of an emergency stop of the storage and retrieval unit; oscillating crank pivoting from a first oscillating crank position to a second oscillating crank position, said mast being in an angular position when said oscillating crank is in said first oscillating crank position, said mast being in said normal position when said second oscillating crank is in said second oscillating crank position.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamide (US 2002/0039527) in view of Dahm (US 4,217,530).

Kamide discloses the mast that has a load limit value that can be set and an electric drive 8.

Kamide discloses two motors driving the stacker crane, but fails to disclose the specifics, namely the chassis has at least four axes with end-side rollers, which are guided in the rails in a non-tilting manner, wherein two axes each are arranged as an axis pair one on top of another and the two axis pairs are located at horizontally spaced locations from one another at a short distance (d); the

chassis has a friction wheel as a driving wheel, which meshes with one of the rails in a rolling- driving manner.

Dahm discloses a chassis has at least four axes with end-side rollers 108-113, which are guided in the rails 100 in a non-tilting manner, wherein two axes each are arranged as an axis pair one on top of another, 113/109 and the two axis pairs are located at horizontally spaced locations from one another at a short distance (d) which equals 3 times the diameter of the roller, as shown in figure 4; the chassis has a friction wheel 37 as a driving wheel, which meshes with one of the rails in a rolling- driving manner in order to provide additional stabilization. Therefore it would have been obvious to a person having ordinary skill in the art at the time of invention to include the specific side rollers and drive of Dahm in the device of Kamide in order to provide additional stabilization.

Response to Arguments

1. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection. While the basis for the rejection has remained the same, the reference characters have been changed to show the newly amended claim limitations anticipated.

Conclusion

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA I. RUDAWITZ whose telephone number is (571)272-7856. The examiner can normally be reached on Monday - Friday, 7:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. I. R./
Examiner, Art Unit 3652

/Saúl J. Rodríguez/
Supervisory Patent Examiner, Art
Unit 3652